

Remarks/Arguments

The Specification has been amended to correct a typographical error in the Brief Description of the Drawings section. Applicants respectfully request reconsideration of the Application in view of the foregoing amendments and the following remarks.

Election/Restriction

The Patent Office asserted that the Application contained claims drawn to the following patentably distinct species of the claimed invention:

Group I – FIGS. 1-4 and 7; and
Group II – FIGS. 5 and 6

and required Applicants to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Patent Office further argued that none of the claims are generic.

Applicants provisionally elect the species of Group I – FIGS. 1-4. Claims 1-2, 7-12, and 17-22 read on the elected species. Applicants respectfully traverse the election requirement for at least the following reasons.

The Patent Office has incorrectly asserted that FIG. 7 illustrates the species of Group I. FIG. 7 is a cross-sectional view of the embodiment of the invention shown in FIGS. 5 and 6, and thus illustrates the species of Group II. FIG. 1 is generic to both the species shown in FIGS. 2-4 (Group I) and the species shown in FIGS. 5-7 (Group II).

Independent claims 1, 11 and 21 are generic to both the species of Group I and the species of Group II. The species of Group I includes a clamp assembly having a planetary gear system wherein the sun gear of the planetary gear assembly is attached to the clamp assembly cap and the planet gears are pinned to the bolt assembly carrier. The species of Group II also includes a clamp assembly having a planetary gear system, but differ primarily from the species of Group I in that the sun gear is attached to the bolt assembly not the cap and the planet gears are pinned to the cap not the bolt assembly carrier. However, independent claims 1 and 11 recite a clamp assembly including “a planetary gear system for transmitting torque applied to the clamp assembly to the blade washer,” while independent claim 21 recites a “clamping means including means for transmitting torque applied to the clamping means to the blade engaging means.” Thus, independent claims 1, 11 and 21

do not recite the specific structure of the planetary gear system or torque transmitting means claimed. Consequently, independent claims 1, 11 and 21 and dependent claims 2, 12 and 22, which depend directly there from and add the limitation of an extendable lever (or means for increasing the amount of torque applied to the clamping means), are generic to both the species of Group I and the species of Group II.

Moreover, because independent claims 1, 11 and 21 are generic, it would not be unreasonable for the Patent Office to examine the claims which depend from these claims concurrently, regardless of whether they are drawn to the species of Group I or Group II. As noted, the species of Group I and Group II differ primarily in the arrangement and support of the sun and planet gears of the planetary gear system. While this difference is believed to be patentably distinct, a search sufficiently complete to find prior art relevant to either species would necessarily uncover the prior art relevant to the other species without being unduly extensive or burdensome. Thus, examination of all claims pending in the application would require no additional searching, and would not place an unreasonable burden on the Patent Office.

Accordingly, Applicants request that the Election of Species Requirement be withdrawn and that all claims 1-22 currently pending in the Application be examined concurrently by the Patent Office.

CONCLUSION

Consideration of the application and issuance of the application as a patent is earnestly solicited.

Respectfully submitted,

Black and Decker Inc.,

Dated: October 19, 2005

By: 

Kevin E. West

Reg. No. 43,983

Kevin E. West
SUITER • WEST • SWANTZ PC LLO
14301 FNB Parkway, Suite 220
Omaha, NE 68154
(402) 496-0300 Telephone
(402) 496-0333 Facsimile